IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4484 OF 2006

Shri Nitin Bhaskar Tambe ...Petitioner.

V/s

1. The State of Maharashtra
and anr. ....Respondents.

Mr. P.M. Pradhan for the petitioner.

Mr. S.R. Nargolkar, AGP for the respondent Nos.1 to 3.

CORAM: V.G. PALSHIKAR &
V.M. KANADE, JJ.

DATE : 13th July, 2006

P.C.:

1. By this petition, petitioner has made the following prayers:-

(a) This Hon'ble Court be pleased to issue a writ of mandamus under Article 226 of the Constitution of India or any other appropriate writ and/or direction in the nature of writ of mandamus, directing the Respondents not to take any step of giving any extension to the said Shri Shirodkar who has already attained

the age of superannuation and is working in the said Department on extension.

(b) This Hon'ble Court be pleased to issue a direction to the Respondents to consider the applications of the persons who have not attained the age of superannuation viz., 58 years of age for any post as advertised in an advertisement dated 30th June 2006.

(c) This Hon'ble Court be pleased to issue a writ of prohibition under Article 226 of the Constitution of India or any other appropriate writ and/or directions in the nature of writ of prohibition, prohibiting Respondent Nos. 1 to 3 from taking any steps and/or acting in the manner of giving extension to the said Shri P.G. Shirodkar who is working on an extension as Chief Production Officer and holding the charge of Controller and considering the applications of persons who have already crossed the age of 58 years in any manner whatsoever.

(d) Pending the hearing and final disposal of the present petition, an ad-interim injunction

be granted, restraining the Respondents from giving any extension to the present incumbent of Chief Production Officer who is working on extension in any manner and on such terms and conditions as this Hon'ble Court deems fit and proper in the circumstances of the case.

(e) Costs of this petition be provided for.

(f) Pass any such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case."

All the prayers are based on baseless apprehensions and surmises and assumptions arising out of the advertisement issued on 30th June 2006 by the respondent No.2 - Bureau. If age is relaxed, Mr. Shirodkar is likely to be appointed or extended. If extension is given and Shirodkar is appointed, loss would be caused. Mr. Shirodkar is being prosecuted. If he is convicted, the appointment may be bad. If he is convicted, he would be convicted for immoral turpitude which is again on surmises which may or may not come true. Every apprehension, therefore, presupposes an action which may or may not take place.

In such circumstances, it cannot be said that any cause of action exists today. Hence, the petition is dismissed.

(V.G.PALSHIKAR, J.)

(V.M. KANADE, J.)